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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,585	11/14/2003	Brian K. Hollowell	1033-MS1008	1674
60533	7590	08/08/2006	EXAMINER	
TOLER SCHAFFER, LLP 5000 PLAZA ON THE LAKES SUITE 265 AUSTIN, TX 78746			ESCALANTE, OVIDIO	
			ART UNIT	PAPER NUMBER
			2614	

DATE MAILED: 08/08/2006

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/714,585
Filing Date: November 14, 2003
Appellant(s): HOLLOWELL ET AL.

Jeffrey G. Toler, Reg. No. 38,342
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed May 31, 2006 appealing from the Office action mailed January 11, 2006.

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(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,341,160	TVERSKOY et al.	1-2002
2004/0072544	ALEXIA	4/2004

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(9) Grounds of Rejection

Claims 1-4,6-19,21-27, 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tverskoy et al. US Patent 6,341,160 in view of Alexis US Patent Pub 2004/0072544.

Regarding claims 1,10,18,29 and 30, Tverskoy teaches a messaging method (abstract) and a computer-readable medium having computer-readable data comprising:

receiving an indication of a call from a calling party to a called party, (col. 3, lines 13-20);

answering the call at a premises of the called party; prompting the calling party to leave a message, (col. 3, lines 20-21);

saving at least a portion of the message as an audio file, (col. 3, lines 26-29);

recognizing that the calling party left the message, (col. 3, lines 56-62);

preparing an outgoing message in response to recognizing that the calling party left the message, (col. 4, line 62-col. 5, line 13);

attaching the audio file to the outgoing message, (col. 4, lines 2-9);

addressing the outgoing message to a network node associated with a unified messaging mailbox of the called party, (col. 4, line 62-col. 5, line 13); and

initiating sending of the message and the audio file from the premises to the network node, (col. 5, lines 24-30).

Tverskoy does not specifically teach wherein the call comprises a Voice over Internet Protocol call.

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In the same field of endeavor, Alexis teaches wherein a call can comprises a Voice over Internet Protocol call, (paragraphs 0045 and 0051). Alexis also teaches converting the audio file into an uuencoded text format, (paragraphs 0166 and 0172) and a computer jack comprises a universal serial bus port, (paragraph 0092 and 0146).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Tverskoy by providing Voice over Internet Protocol calls as taught by Alexis so that cost for the call can be lowered when compared with conventional telephone calls.

Regarding claim 2, Tverskoy, as applied to claim 1, teaches disconnecting from the call, (col. 3, lines 29-31);

prompting a modem to dial a telephone number associated with an Internet Service Provider, (col. 4, lines 14-22; col. 8, lines 24-34);

recognizing that a connection exists with the Internet Service Provider, (col. 4, lines 14-22); and

outputting information representing the outgoing message for delivery via the connection, (col. 4, line 62-col. 5, line 13).

Regarding claim 3, Tverskoy, as applied to claim 2, teaches outputting a username and password to the Internet Service Provider to gain access to an account of the called party, (col. 4, lines 14-23).

Regarding claim 4, Tverskoy, as applied to claim 1, teaches maintaining a notification list including at least one calling party, (col. 3, lines 34-46);

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receiving identification information associated with the call and identifying the calling party, (col. 3, lines 32-39); and determining that the calling party is the at least one calling party, (col. 3, lines 32-46).

Regarding claim 6, Tverskoy, as applied to claim 1, teaches wherein the outgoing message has a format of an electronic mail message format, (col. 4, line 62-col. 5, line 13).

Regarding claim 7, Tverskoy, as applied to claim 1, teaches utilizing a modem device to send the outgoing message, wherein the modem device is a cable modem, a dial-up modem, (col. 8, lines 24-34).

Regarding claim 8, Tverskoy, as applied to claim 1, teaches determining that a data connection exists, (col. 4, lines 24-32); and

utilizing the data connection to send the outgoing message, (col. 5, lines 24-30).

Regarding claim 9, Tverskoy, as applied to claim 1, teaches wherein the message comprises a multi-modal message having an audio component and a non-audio component, (col. 5, lines 2-24).

Regarding claim 11, Tverskoy teaches a messaging system, (abstract), comprising:
a housing component (12) at least partially defining an enclosure, (fig. 1);
a network interface (18) operable to form at least a portion of a communication link between remote node of a network (ISP 30) and a component located within the enclosure, (fig. 1);

a call awareness trigger communicatively coupled to the network interface and operable to recognize a signal indicating an incoming call from a calling party, (col. 3, lines 13-20);

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a call answering mechanism operable to answer the incoming call and to prompt the calling party to leave a message, (col. 3, lines 20-25);

a memory operable to store an audio file representing the message, (col. 3, lines 26-29);

a messaging engine operable to compose an outgoing message, to attach the audio file to the outgoing message, and to initiate communication of the outgoing message to a remote messaging server, (col. 4, line 62-col. 5, line 13,24-30).

Tverskoy does not specifically teach a Voice over Internet Protocol engine coupled to the network interface and wherein the call comprises a Voice over Internet Protocol call.

In the same field of endeavor, Alexis teaches wherein a call can comprises a Voice over Internet Protocol call and a voice over Internet protocol engine coupled to the network interface, (paragraphs 0045 and 0051). Alexis also teaches converting the audio file into an uuencoded text format, (paragraphs 0166 and 0172) and a computer jack comprises a universal serial bus port, (paragraph 0092 and 0146).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Tverskoy by providing Voice over Internet Protocol calls as taught by Alexis so that cost for the call can be lowered when compared with conventional telephone calls.

Regarding claim 12, Tverskoy, as applied to claim 11, teaches wherein the call awareness trigger, the call answering mechanism, the memory, and the messaging engine are located within the enclosure, further wherein the call awareness trigger recognizes a ring voltage signal, (fig. 1; col. 3, lines 13-20).

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Regarding claim 13, Tverskoy, as applied to claim 11, teaches a computer having a housing comprising the housing component, (fig. 1).

Regarding claim 14, Tverskoy, as applied to claim 11, teaches a telephone station communicatively coupled to a jack associated with the housing component; and a modem communicatively coupled to the network interface, (fig. 1; col. 4, lines 14-22; col. 8, lines 24-34).

Regarding claim 15, Tverskoy, as applied to claim 11, teaches a processor (26) located within the enclosure, the processor operable to execute instructions to effectuate the messaging engine, (col. 4, line 62-col. 5, lines 2-9).

Regarding claim 16, Tverskoy, as applied to claim 11, teaches a computer jack associated with the housing component, the computer jack operable to interconnect a computer (34) with the component; and a processor located within the enclosure, (fig. 1).

Regarding claim 17, Tverskoy, as applied to claim 16, teaches a computer readable medium having computer-readable data to allow the computer to store a username and password in the memory, to indicate a messaging address for an intended recipient of the outgoing message, and to indicate an identifier for the remote messaging server, (fig. 1).

Regarding claim 19, Tverskoy, as applied to claim 11, teaches a broadband modem communicatively coupled to the network interface, the broadband modem operable to support an always-on connection to a broader network, (col. 8, lines 24-34).

Regarding claim 21, Tverskoy teaches a method of facilitating unified messaging, (abstract), comprising:

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communicatively coupling a messaging device to a premises network communicatively coupled to a wide-area communication network (Internet), (fig. 1);

communicatively coupling a telephone station at the premises to the messaging device, (fig.1);

communicatively coupling a computer to the messaging device (fig. 1);

employing the messaging device to answer an incoming telephone call from a calling party, (col. 3, lines 13-20), to play a pre-recorded message that prompts the calling party to leave a message, (col. 3, lines 21-25), to record a voice message from the calling party, (col. 3, lines 21-29), to compose an electronic mail message in response to the voice message, (col. 4, line 62-col. 5, line 13), to attach an audio file representing the voice message to the electronic mail message, and to initiate sending of the electronic mail message via the wide-area communication network, (col. 4, line 62-col. 5, line 13,24-30).

Tverskoy does not specifically teach wherein the call comprises a Voice over Internet Protocol call.

In the same field of endeavor, Alexis teaches wherein a call can comprises a Voice over Internet Protocol call, (paragraphs 0045 and 0051). Alexis also teaches converting the audio file into an uuencoded text format, (paragraphs 0166 and 0172) and a computer jack comprises a universal serial bus port, (paragraph 0092 and 0146).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Tverskoy by providing Voice over Internet Protocol calls as taught by Alexis so that cost for the call can be lowered when compared with conventional telephone calls.

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Regarding claim 22, Tverskoy, as applied to claim 21, teaches executing code directing the computer to store a username and password in a memory associated with the messaging device, to indicate a messaging address for an intended recipient of the electronic mail message, and to indicate an identifier for a remote messaging server communicatively coupled to the wide-area network, (col. 4, lines 14-23).

Regarding claim 23, Tverskoy, as applied to claim 21, teaches determining that a data connection exists interconnecting the premises network and a node of the wide-area network; and utilizing the data connection to send the electronic mail message, (col. 4, lines 14-23).

Regarding claim 24, Tverskoy, as applied to claim 21, teaches disconnecting from the incoming telephone call, (col. 3, lines 29-31);

prompting a modem to dial a telephone number associated with an Internet Service Provider, (col. 4, lines 14-22; col. 8, lines 24-34);

recognizing that a connection exists with the Internet Service Provider, (col. 4, lines 14-22); and

utilizing the connection to send the electronic mail message, (col. 5, lines 24-30).

Regarding claim 25, Tverskoy, as applied to claim 21, teaches wherein the audio file is a WAV file, (col. 4, line 62-col. 5, line 13).

Regarding claim 26, Tverskoy, as applied to claim 21, teaches addressing the electronic mail message to more than one intended recipient, (col. 5, lines 24-30).

Regarding claim 27, Tverskoy, as applied to claim 21, teaches attaching a second file to the electronic mail message comprising non-audio information communicated by the calling party, (col. 4, line 62-col. 5, line 13).

(10) Response to Argument

The following ground(s) of rejection are applicable to the appealed claims:

Regarding claims 11-19:

The Applicant states, in pages 5 of the Appeal Brief, that the rejection is based on language not recited by claim 11.

The Examiner has clarified the wording of “wherein the call comprises a VoIP call” to read “Voice over Internet Protocol engine communicatively coupled to the network interface.” The citations that reference the limitation remain the same since both limitations pertain to a VoIP feature. The issue regarding “Voice over Internet Protocol engine communicatively coupled to the network interface” also remains the same since the limitation is cumulative over the limitation “wherein the call comprises a VoIP call” therefore, there are no new grounds of rejection.

Applicant contends, in page 5 of the Appeal Brief, that Tverskoy does not teach “a messaging system including a Voice over Internet Protocol engine communicatively coupled to the network interface”.

The Examiner has stated in the grounds of rejection that the feature of Voice over Internet Protocol is supported by the combination of Tverskoy and Alexis.

Tverskoy provides for an answering machine that is capable of receiving calls from a telephony network via either a regular PSTN line or an ISDN line. The answering machine is further capable of connecting to the Internet to transfer a recorded voice message over a Packet Network. Providing this suggestion, and the ability to connect to a Packet Network (i.e. the Internet) and the relied upon the teachings of Alexis to show that it would have been obvious to

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one of ordinary skill in the art to have an answering machine system which is able to receive incoming calls via a Voice over Internet Protocol (VoIP) Network so that the costs for calls can be lowered, the Examiner has met the requirements under 103 to show suggestion and motivation within the prior art to include receiving VoIP calls. The suggestion for using VoIP comes from the primary reference, Tverskoy, which shows that the answering machine can interact with the Internet via a network interface and thus has the ability to transfer voice over a data network and the motivation for receiving VoIP calls is derived from the secondary reference, Alexis, in which Alexis states that VoIP calls “lowers the costs” of making and receiving calls. Thus, the combination of Tverskoy and Alexis fully meet each limitation, and specifically teach and suggest “a messaging system including a Voice over Internet Protocol engine communicatively coupled to the network interface.

Applicant states, in pages 5-6 of the Appeal Brief that in the Final Office Action the Examiner agreed that combining a VoIP feature to the answering machine of Tverskoy would not have been obvious in light of Alexis.

The Applicant has taken the Examiner’s statement out of context. The Examiner was trying to show that the claims do not recite a VoIP feature that is within an answering machine in order to show that the specific limitation of “wherein the call is a VoIP call” or “a messaging system comprising...”Voice over Internet Protocol engine communicatively coupled to the network interface” was broad.

For example, claim 1, recites “the call comprises a Voice over Internet Protocol call”. Claim 11, recites a “messaging system” comprising a “Voice over Internet Protocol engine communicatively coupled to the network interface”. Claim 21, recites “wherein the incoming

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telephone call comprises a Voice over Internet Protocol call”. Claim 29, recites “wherein the incoming telephone call comprises a Voice over Internet Protocol call.”

None of the above claim limitations state that the actual answering machine itself has a VoIP device or has internal parts that process Voice over Internet Protocol. Given that the claims do not specify this, the Examiner relied upon Alexis to teach the well know feature of the ability to have a Voice over IP system in the network which allows a caller to establish a Voice over IP call to an answering machine.

The Examiner’s above obviousness statement was provided to Applicant so that the Applicant would see the Examiner’s position, in that the claimed limitations do not require any modification of the answering machine and not the fact that one of ordinary skill in the art would have found it obvious to add a VoIP messaging system into Tverskoy as shown in the Final Office Action and the Grounds of Rejection.

Applicant further states, in page 6 of the Appeal Brief, that Tverskoy discloses an answering machine but fails to disclose or suggest VoIP calls and that Tverskoy and Alexis fail to disclose or suggest a motivation to modify the answering machine of Tverskoy to include a Voice over Internet Protocol feature.

The Examiner agrees that Tverskoy does not specifically disclose VoIP calls but notes that having the call itself being originated, as a VoIP call would have been obvious in light of Alexis and further would have been obvious to one of ordinary skill in the art.

Alexis provides a VoIP feature and an answering machine telephone (fig. 4) that is able to receive VoIP calls. A caller originates a VoIP call and the network processes the call before it sends the call to the answering machine. The communication device 102 provides an answering

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machine feature of recording messages and further has the ability to place/receive VoIP telephone calls.

Alexis states that VoIP calls are lower in cost than regular calls. Therefore, one of ordinary skill in the art would have been motivated to allow the answering machine of Tverskoy to receive VoIP calls so that the cost can be lowered.

The Applicant further contends in page 6 of the Appeal Brief that the answering machine of Tverskoy is technically inconsistent with the real-time communication system of Alexis.

The Examiner would like to point out that the Examiner is only using Alexis to show that it was well known in the art and that it would have been obvious to include VoIP calls in a system that includes a telephone answering machine. Involving real time communication Alexis or time-shifting aspects of Tverskoy is not at issue with the obviousness statement provided by the Examiner. The Examiner is only providing obviousness along with the motivation for one of ordinary skill in the art to include VoIP calls or interfaces in a network.

The motivation provided by the Examiner originated from Alexis in which Alexis states that home telephones place/receive VoIP telephone calls for no or little cost. Therefore, the motivation to modify the call in Tverskoy is so that the calling party can make a call to the called party for little or not cost and thus saving money.

Applicant additionally argues, on page 6 of the Appeal Brief, that the answering machine of Tverskoy is technically inconsistent with the real-time communication system of Alexis since the answering machine of Tverskoy allows a user to retrieve a message at a

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later time and thus the time-shifted aspect of Tverskoy would be thwarted by the real time communication system of Alexis.

As shown above, in the grounds for rejection, the Examiner relied upon the teachings of VoIP calls to answering machines as shown by Alexis. The Applicant is arguing embodiments that the Examiner did not rely upon. While the Examiner notes that the primary embodiment of Alexis is to provide real-time communications between available parties the Examiner notes that Alexis does provide an “answering machine” and thus provides for an embodiment in which the called party is not available. The Examiner as shown above, clearly showed suggestion as provided in the primary reference and motivation for one of ordinary skill in the art to use VoIP calls in an answering machine embodiment.

Regarding claims 1-4 and 6-10:

Applicant states, in pages 7-8, that the answering machine of Tverskoy is not equipped to receive VoIP calls and that Tverskoy is only capable of receiving information over a plain old telephone services (POTS) line or an Integrated Services Digital Network (ISDN) line.

The Examiner notes that Applicant has acknowledge that Tverskoy is capable of receiving information over a POTS line or an ISDN line. ISDN, as well known in the art, is a type of circuit switch telephone network system designed to allow digital transmission of voice and data over ordinary telephone wires. Hence the suggestion of transmitting voice over data lines and the Internet is clearly suggested by the use of ISDN lines. The Examiner acknowledges that Tverskoy does not specifically show that the answering machine can receive VoIP calls, however, the Examiner notes that by using the suggestion that the answering machine is more

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than capable of interacting with the Internet by transmitting voice over the Internet (i.e. the voice is within the message is transmitted across the Internet) then one of ordinary skill in the art would have found it obvious to have a system in which the answering machine can receive calls made by a VoIP caller as shown by Alexis. Alexis, describes a system in which both the calling and called party can initiate and receive VoIP calls and wherein the device that is used is an answering machine. Alexis further states that VoIP is used so that the cost can be lowered. Therefore, the combination of this teaching with Tverskoy would providing for the ability of the answering machine of Tverskoy to receiving incoming calls over an IP network.

Applicant has stated, pages 7 and 11 of the Appeal Brief, that a person of ordinary skill in the art would not be motivated to look to Alexis to modify the answering machine of Tverskoy.

To establish a *prima facie* case of obviousness, the Examiner met the three basic criteria. First the examiner stated the suggestion and motivation within the prior art references. Tverskoy suggests of the ability to connect to an IP network using the answering machine and submit a recorded message in an email to the Internet Network. This ability shows that the answering machine has an Internet Protocol Interface since it is able to connect to an IP network (i.e. the Internet) and further suggests that it would have been obvious to one of ordinary skill in the art to use IP infrastructure with Tverskoy. Alexis, suggests and provides motivation to use VoIP with the motivation that VoIP provides less cost to the user and the ability to connect VoIP calls to answering machines. The second criteria with a reasonable expectation of success is seen with Alexis in which Alexis clearly shows that VoIP has been successfully employed and that the ability to connect VoIP calls to an answering machine was obvious and well known in the art.

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Finally the combination of Tverskoy and Alexis provides for each of the claimed limitation as stated in the Grounds for Rejection and further provides the fact that it was well known and would have been obvious to one of ordinary skill in the art to use the well known feature of VoIP, as taught by Alexis, to be included with the calls of Tverskoy so that the cost of making calls can be reduced.

Another suggestion of the ability to use VoIP comes from the use of ISDN since ISDN is a type of circuit switch telephone network system designed to allow digital transmission of voice and data over ordinary telephone wires. Hence, the suggestion of transmitting voice over data lines and the Internet is clearly suggested by the use of ISDN lines.

Applicant repeats the argument, in page 8 of the Appeal Brief, that in the Final Office Action the Examiner agreed that combining a VoIP feature to the answering machine of Tverskoy would not have been obvious in light of Alexis.

As stated above, the Applicant has taken the Examiner statement out of context. The Examiner was trying to show that the claims do not recite a VoIP feature that is within an answering machine in order to show that the specification limitation was broad.

In interpreting the claims with its broadest reasonable interpretation the Examiner notes that none of the above claims state that the actual answering machine itself has a VoIP device or has internal parts that process Voice over Internet Protocol. Given that the claims do not specify this, the Examiner relied upon Alexis to teach the well know feature of the ability to have a Voice over IP system in the network which allows a caller to establish a Voice over IP call to an answering machine.

The Examiner's non-obviousness remark was not intended to show that the Tverskoy could never be modified to accept an incoming call that was a VoIP call but to show that the Examiner was trying to aid the Applicant in clarifying the claims to more closely read on their invention. The fact of the matter, however, remains that the claims do not specify or require anything more than receiving a VoIP call and therefore, the answering device itself does not need any additional hardware components. All of the VoIP features can be network or device based. Alexis provides for both of these scenarios and fully supports that VoIP features can be provided by the network and thus allows the incoming call to be a VoIP call.

Applicant acknowledges that Tverskoy discloses that an answering machine may call an Internet Service Provider.

The Examiner notes that this furthers provide additional suggestion and obviousness with Tverskoy in that the answering machine is fully capable of interacting with an IP network by calling the ISP to transmit voice data information.

Applicant repeats their argument, in pages 9-10 of the Appeal Brief, that the answering machine of Tverskoy is not equipped to receive VoIP calls and that Tverskoy is only capable of receiving information over a plain old telephone services (POTS) line or an Integrated Services Digital Network (ISDN) line.

ISDN, as well known in the art is a type of circuit switch telephone network system designed to allow digital transmission of voice and data over ordinary telephone wires. Hence the suggestion of transmitting voice over data lines and the Internet is clearly suggested by the use of ISDN lines. The Examiner acknowledges that Tverskoy does not specifically show that the answering machine can receive VoIP calls, however, the Examiner notes that by using the

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suggestion that the answering machine is capable of interacting with the Internet by transmitting voice over the Internet (i.e. the voice is within the message that is transmitted across the Internet) then one of ordinary skill in the art would have found it obvious to have a system in which the answering machine can receive calls made by a VoIP caller as shown by Alexis. Alexis, describes a system in which both the calling and called party can initiate and receive VoIP calls and wherein the device that is used is an answering machine. Alexis further states that VoIP is used so that the cost can be lowered. Therefore, the combination of this teaching with Tverskoy would providing for the ability of the answering machine of Tverskoy to receiving incoming calls over an IP network.

Regarding claims 21-27:

Applicant has stated, pages 11-12 of the Appeal Brief, that a person of ordinary skill in the art would not be motivated to look to Alexis to modify the answering machine of Tverskoy.

To establish a *prima facie* case of obviousness, the examiner met the three basic criteria. First the examiner stated the suggestion and motivation with the prior art references. Tverskoy suggest of the ability to connect to an IP network when the answering submits the recorded message in email form to the Internet Network. This ability shows that the answering machine has an Internet Protocol Interface since it is able to connect to an IP network and further suggests that it would have been obvious to one of ordinary skill in the art to use IP infrastructure with Tverskoy. Alexis, suggests and provides motivation to use VoIP with the statement that VoIP provides for less cost to the user and the ability to connect VoIP calls to answering machine. The Second criteria with a reasonable expectation of success is seen with Alexis in which Alexis

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clearly shows that VoIP has been successfully employed and that the ability to connect VoIP calls to an answering machine was obvious and known in the art. Finally the combination of Tverskoy and Alexis provides for each of the claimed limitation as stated in the Ground for Rejection and further provides the fact that it was well known and would have been obvious to one of ordinary skill in the art to use the well known feature of VoIP, as taught by Alexis, to be included with the calls of Tverskoy so that the cost of making calls can be reduced.

Another suggestion of the ability to use VoIP comes from the use of ISDN since ISDN is a type of circuit switch telephone network system designed to allow digital transmission of voice and data over ordinary telephone wires. Hence, the suggestion of transmitting voice over data lines and the Internet is clearly suggested by the use of ISDN lines.

Applicant repeats the statement, in page 12 of the Appeal Brief, that the Final Office action states that it would not have been obvious to combine Tverskoy with Alexis, however as stated above, the Applicant has taken the Examiner statement out of context. The Examiner was trying to show that the claim in no way recite a VoIP feature that is within an answering machine.

None of the above claims state that the actual answering machine itself has is a VoIP device or has internal parts that process Voice over Internet Protocol. Given that the claims do not specify this, the Examiner relied upon Alexis to teach the well know feature of the ability to have a Voice over IP system in the network which allows a caller to establish a Voice over IP call to an answering machine. The Examiner notes that the Applicant acknowledge on page 12 of the Appeal Brief that Tverskoy is able to make a call over the Internet. The Examiner notes that this is further suggestion that tit would have been obvious to include incoming calls via an IP

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network since the answering machine is fully capable of making outgoing calls via an IP network.

Applicant states, in pages 12-13 of the Appeal Brief, that claim 21 is directed to answering a VoIP call and that whether or not a caller may initiate a VoIP call is irrelevant to whether the answering machine of Tverskoy can answer a VoIP call.

The Examiner notes that with Alexis, the answering machine is enable to initiate and receive VoIP calls as shown in above. Alexis shows that it was well known in the art to include the ability to answer a VoIP call by an answering machine device and states that one of ordinary skill in the art would have been motivated to do so for the reason of lowering costs.

The Examiner maintains that this satisfies the requirements under 103 in that the prior provides a suggestion and motivation to answer VoIP calls.

Regarding claims 29 and 30:

Applicant states, in pages 15-16 of the Appeal Brief, that neither Tverskoy nor Alexis provide any motivation to make the asserted combination and Tverskoy fails to disclose or suggest VoIP calls and Alexis fails to disclose or suggest a motivation to modify the answering machine of Tverskoy.

To establish a *prima facie* case of obviousness, the examiner met the three basic criteria. First the examiner stated the suggestion and motivation with the prior art references. Tverskoy suggest of the ability to connect to an IP network when the answering submits the recorded message in email form to the Internet Network. This ability shows that the answering machine has an Internet Protocol Interface since it is able to connect to an IP network and further suggests that it would have been obvious to one of ordinary skill in the art to use IP infrastructure with

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Tverskoy. Alexis, suggests and provides motivation to use VoIP with the statement that VoIP provides for less cost to the user and the ability to connect VoIP calls to answering machine. The Second criteria with a reasonable expectation of success is seen with Alexis in which Alexis clearly shows that VoIP has been successfully employed and that the ability to connect VoIP calls to an answering machine was obvious and known in the art. Finally the combination of Tverskoy and Alexis provides for each of the claimed limitation as stated in the Ground for Rejection and further provides the fact that it was well known and would have been obvious to one of ordinary skill in the art to use the well known feature of VoIP, as taught by Alexis, to be included with the calls of Tverskoy so that the cost of making calls can be reduced.

Another suggestion of the ability to use VoIP comes from the use of ISDN since ISDN is a type of circuit switch telephone network system designed to allow digital transmission of voice and data over ordinary telephone wires. Hence the suggestion of transmitting voice over data lines and the Internet is clearly suggested by the use of ISDN lines.

Applicant repeats the argument, in pages 15-16 of the Appeal Brief, that the answering machine of Tverskoy is not equipped to receive VoIP calls and that Tverskoy is only capable of receiving information over a plain old telephone services (POTS) line or an Integrated Services Digital Network (ISDN) line.

ISDN, as well known in the art is a type of circuit switch telephone network system designed to allow digital transmission of voice and data over ordinary telephone wires. Hence the suggestion of transmitting voice over data lines and the Internet is clearly suggested by the use of ISDN lines. The Examiner acknowledges that Tverskoy does not specifically show that the answering machine can receive VoIP calls, however, the Examiner notes that by using the

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suggestion that the answering machine is more than capable of interacting with the Internet by transmitting voice over the Internet (i.e. the voice is within the message that is transmitted across the Internet) then one of ordinary skill in the art would have found it obvious to have a system in which the answering machine can receive calls made by a VoIP caller as shown by Alexis.

Alexis, describes a system in which both the calling and called party can initiate and receive VoIP calls and wherein the device that is used is an answering machine. Alexis further states that VoIP is used so that the cost can be lowered. Therefore, the combination of this teaching with Tverskoy would providing for the ability of the answering machine of Tverskoy to receiving incoming calls over an IP network.

Applicant states, in pages 17-19 of the Appeal Brief, that neither Tverskoy nor Alexis provide any motivation to make the asserted combination and Tverskoy fails to disclose or suggest VoIP calls and Alexis fails to disclose or suggest a motivation to modify the answering machine of Tverskoy.

To establish a *prima facie* case of obviousness, the examiner met the three basic criteria. First the examiner stated the suggestion and motivation with the prior art references. Tverskoy suggest of the ability to connect to an IP network when the answering machine submits the recorded message in email form to the Internet Network. This ability shows that the answering machine has an Internet Protocol Interface since it is able to connect to an IP network and further suggests that it would have been obvious to one of ordinary skill in the art to use IP infrastructure with Tverskoy. Alexis, suggests and provides motivation to use VoIP with the statement that VoIP provides for less cost to the user and the ability to connect VoIP calls to answering machine. The Second criteria with a reasonable expectation of success is seen with Alexis in

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which Alexis clearly shows that VoIP has been successfully employed and that the ability to connect VoIP calls to an answering machine was obvious and known in the art. Finally the combination of Tverskoy and Alexis provides for each of the claimed limitation as stated in the Ground for Rejection and further provides the fact that it was well known and would have been obvious to one of ordinary skill in the art to use the well known feature of VoIP, as taught by Alexis, to be included with the calls of Tverskoy so that the cost of making calls can be reduced.

Another suggestion of the ability to use VoIP comes from the use of ISDN since ISDN is a type of circuit switch telephone network system designed to allow digital transmission of voice and data over ordinary telephone wires. Hence the suggestion of transmitting voice over data lines and the Internet is clearly suggested by the use of ISDN lines.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.


Respectfully submitted,

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